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10/663,003	09/15/2003	Daniel J. Talken	MGM/194	1749

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EXAMINER

ALIE, GHASSEM

ART UNIT PAPER NUMBER

3724

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,003

Applicant(s)

TALKEN, DANIEL J.

Examiner

Ghassem Alie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 3-6, 10, 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7-9, 11, and 12 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09/15/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Election/Restrictions

1. Applicant's election of invention in Group III (claims 7-9 and 11-12) on 06/24/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 3-6, 10, 13, and 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Claims 1, 2, 7-9, and 11-12 will be examined.

Specification

3. The specification is objected to under 37 CFR 1.71 for not disclosing how the bundle breaker 7 breaks the bundle when the storable transfer conveyor is positioned above the downstream belt conveyors 4' and 4'. It is not clear how the bundle breaker 7 breaks the bundle. Is the bundle manually loaded onto on the downstream belt conveyors 4' and 4' prior to be broken by the bundle breaker 7?

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 7-9 and 11-12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claims 7, the disclosure fail to a bundle breaker machine,

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which includes the downstream conveyor, breaks the bundle when the storable transfer conveyor is pulled onto the downstream conveyor. It is not clear how the bundle breaker machine breaks the bundle. Is the bundle manually loaded from the storable transfer conveyor onto the downstream conveyor prior to be broken into smaller bundles?

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2, 7-9 and 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding Claim 2, it is not clear how the storable transfer conveyor can be pulled directly onto the downstream conveyor by the pulling means of the transfer conveyor. It should be noted that the storable transfer conveyor should be manually placed on the downstream conveyor in order to be pulled by the pulling means of the downstream conveyor. The power pulling means by itself cannot pull the transfer conveyor onto the downstream conveyor. The transfer conveyor should be placed on the pulling means of the downstream conveyor before it pulled by powered pulling means onto the downstream conveyor. The step of pulling the storable conveyor onto the downstream conveyor cannot be done only by the powered pulling means of downstream conveyor. Therefore, claim 2 is inaccurate.

Claim Objections

8. Claim 1 is objected to because of the following informalities: "juxtapostion" should be --juxtaposition--. See claim 1, line 7. Appropriate correction is required.

Claim Rejections - 35 USC § 102

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9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Nussbaum et al. (3,643,939), hereinafter Nussbaum. Regarding claim 1, Nussbaum teaches a storable transfer conveyor system for moving bundles 20a-20d from an upstream conveyor 22, 24 to a downstream conveyor 36. Nussbaum also teaches that the conveyor system including a storable transfer conveyor 26 in a first operative position located adjacent to the upstream conveyor 22, 24 and positioned to deliver the bundles 20a-20d to the downstream conveyor. Nussbaum also teaches that the storable conveyor 26 is movable to a second position in elevational juxtaposition with downstream conveyor 36 substantially vacating the floor area occupied by the storable transfer conveyor in the first operative position. See Figs. 1-7 and col. 2, lines 36-75 and col. 3, lines 1-66 in Nussbaum.

Comment

11. It should be noted that claims 2, 7-9, and 11-12 have not been rejected over prior art. However, in view the issues under 35 U.S.C. 112, first and second paragraphs, and the objection to the specification under 37 CFR 1.71, the allowability of the claimed subject matter cannot be determined at this time.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to

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applicant's disclosure.

Martin et al. (6,655,566), Wyer (5,087,026), Menk (2,793,693), Young et al. (1,712,241), Lingl, Jr. (3,951,283), Sykes (2,993,583), Stevenson (2,701,650), Lynch (3,279,664), Jarman (3,670,611), Wheeler (5,979,606), Schaaf (5,470,466), Maramonte et al. (3,245,557), Roth (4,482,572), Schmid et al. (5,672,045), Letchworth (3,297,174), Forest et al. (5,423,657), Pulda (3,982,750), Martin et al. (2002/0140152), and Hawthorne (5,028,201) teach a conveyor system for moving bundles from an upstream conveyor to a downstream conveyor.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is (571) 272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GA/ga

September 7, 2005

A handwritten signature in black ink, appearing to read 'Allan' followed by a long, sweeping diagonal stroke.

Allan N. Shoap
Supervisory Patent Examiner
Group 3700